

February 22, 2012

**Phil Isenberg, Chair
Delta Stewardship Council
980 Ninth Street, Ste 1500
Sacramento, CA 95814**

RE: Economic Sustainability Plan

Dear Phil:

At the Council's meetings held on February 12 and February 16, 2012, you reviewed the recently completed Economic Sustainability Plan from the Delta Protection Commission. In that regard, we consider your staff's document entitled "The Delta Protection Commission Proposal to Protect the Delta as an Evolving Place" (Agenda Item: 7A).

This staff document presents 9 pages of text and 4 pages of a table indicating where your staff believes the DPC recommendations are consistent, inconsistent, potentially inconsistent, premature or infeasible in relationship to the Delta Plan which your Commission is in the process of developing.

By way of background, I wish to reiterate a couple of points which I made in oral comments to the Commission at your recent meeting.

1. This DPC work is considered highly credible within the Delta community. It also is responsive to the charge contained within the legislation which prompted it. The objectivity and professionalism displayed by the consultants engaged by the DPC is outstanding and their ability to prepare the reports and respond to public comment and peer review on a tight time schedule was remarkable.
2. The commission's task, in the context of the Delta Reform Act, was to identify and analyze the major economic drivers within the Delta and to analyze how they might be impacted by other recommendations which are being discussed in the evolution of your Delta Plan. Because both the Delta Plan and the Bay Delta Conservation Plan have missed their scheduled completion dates, this task has been complicated. The staff criticism of recommendation to sustain the dominant agricultural economy of the Delta is misplaced, especially considering the extent to which water exports from the Delta are devoted to supporting agricultural economies in the export areas.

Your staff document makes certain assumptions or interpretations of both the Delta Reform Act and the Delta Plan, even though neither is complete, and uses them as a basis for criticizing the DPC's work in reaching consistency or inconsistency determinations. This issue arises in the staff document where it discusses the Economic Sustainability Plan at pages 7-9, as well as in the staff notes as they appear in the 4 pages of charts at the end of the document:

1. The recommendations regarding the BDCP (through-Delta conveyance, isolated conveyance capacity, and habitat restoration projects' economic effect) are considered premature, but only due to the schedule slippage of the BDCP. These are certainly fair comments at this point and the ESP is raising legitimate red flags about proposals which remain at the heart of the BDCP. They should not be disregarded.
2. The proposal to upgrade levees to a minimum PL 84-99 standard is considered inconsistent with the Delta Reform Act's requirement that the Delta Plan establish priorities for levee improvement. Having a base standard for levee protection leaves room for higher prioritization of those levees which protect communities and infrastructure and is not inconsistent with the concept of establishing priorities. In fact, as the DPC report points out, failure to maintain minimum levee standards would run counter to the concept of providing long term protection of communities and infrastructure due to the systemic nature of flood protection in the Delta.
3. The staff points to the comments of the DWR and the Delta Science Program's independent review regarding under estimation of levee improvement costs. Those comments appear to ignore the reliance of the DPC analysis upon actual costs being incurred at the present time of unprecedented activity in Delta levee improvement to the standards being considered. DWR's criticism is particularly troubling since it implies ignorance of the current experience in programs which it administers.
4. The first full paragraph at page 8 of the staff document singles out the levee maintenance recommendations as potentially economically infeasible given other demands for limited state funds. This is a problem with all aspects of the Delta Plan. It is curious that the staff would single out levee maintenance funding in this regard inasmuch as the available approved funding from existing approved state bond measures is generally considered to be sufficient to accomplish most of the recommended work. This has been because of the state's participation with local reclamation districts in the state levee subvention and special projects programs which have been in place for the last 25 years. Where in the Delta Plan is the DSC suggesting that the currently available funding, or for that matter, future funding of such programs is inappropriate?
5. The second full paragraph on page 8 should itself be labeled Premature. The ESP's conclusion that large scale conversion of agricultural land in the Delta is inconsistent

with economic sustainability is unchallenged. The criticism is based upon concepts which are not adopted in the Delta Plan at this point and appear to be connected to the possibility of further decline in the fresh water flows in the Delta such as would occur with isolated conveyance from the north Delta.

6. The third full paragraph on page 8 deals with ESP recommendation to avoid increasing open water habitat. The ESP points out that the cost of providing minimum levee standards and reclamation of islands that nevertheless flood is more cost effective than maintaining the perimeter around a large open water area, particularly considering the impacts upon agricultural, recreation, water quality, infrastructure, and the environment which would result.
7. The last paragraph of the staff textual report, coupled with the broad application of the DPC's "covered actions" signaled by recent correspondence to the Delta communities, casts an economic pall upon the Delta which will frustrate local economic activity, perhaps assuring its unsustainability. Not only will development initiatives be comprised by "covered action" review on any lands which might, someday be identified for Delta Plan use, staff cautions that full mitigation will not be required when such lands are eventually acquired or condemned. This "attitude" fuels the local impression that the Delta will shoulder the burden for a Delta Plan which attempts to rectify the damage caused to the Delta by the water exporters. The reference to the Public Policy Institute of California's study is particularly troubling due to the insufficiency of its analysis of both the levee maintenance costs and economic impact of the open water proposal.

The economic Sustainability should lead the DPC'S effort to accomplish the co-equal goals and not be whip-sawed by criticism that it is inconsistent with a Delta Plan that is still in its formative stages and not necessarily reflective of staff's interpretations of undefined objectives in the Delta Reform Act and assumptions of what the Delta Plan may eventually contain.

Yours very truly,

THOMAS M. ZUCKERMAN

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